

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY MEXICO

UNCLAS STATE 279384

E.O. 11652:N/A

TAGS: CASC

SUBJECT: W/W AMERICAN ARRESTEES IN MEXICO

REF: STATE 270356

1. FOLLOWING IS TEXT OF DEPARTMENT'S REPLY SIGNED BY HOLTON
TO CONGRESSMAN FORTNEY STARK HAND DELIVERED DECEMBER 20.

2. QUOTE DEAR MR. STARK: THE SECRETARY HAS ASKED ME TO
REPLY TO YOUR LETTER OF DECEMBER 9 CONCERNING THE TREATMENT
OF AMERICAN CITIZENS UNDER DETENTION IN MEXICO AND THE
ASSISTANCE THEY ARE RECEIVING FROM OUR EMBASSY IN THAT
COUNTRY.

3. THE PROTECTION AND WELFARE OF AMERICANS ABROAD INCLUD-
ING THOSE INCARCERATED IN FOREIGN PRISONS IS, OF COURSE, OF
PRIMARY IMPORTANCE TO THE DEPARTMENT OF STATE. WITHIN THE
LIMITS OF OUR ABILITY, IT IS OUR GOAL TO ASSURE THAT NO
AMERICAN IS SUBJECTED TO ARBITRARY, DISCRIMINATORY OR IN-
HUMANE TREATMENT WHEN IMPRISONED ABROAD AND THAT NO AMERI-
CAN SHOULD SUFFER UNDULY FROM CONDITIONS WHICH FAIL TO MEET
INTERNATIONALLY ACCEPTABLE STANDARDS. IT IS CERTAINLY NOT
THE POLICY OF THIS COUNTRY TO SUBJECT OUR CITIZENS TO
ABUSIVE TREATMENT OF THE TYPE WHICH SOME HAVE ALLEGEDLY
SUFFERED IN MEXICO.

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4. WE FULLY SHARE YOUR CONCERN FOR THE WELFARE OF AMERI-
CANS ARRESTED IN MEXICO, BUT, UNFORTUNATELY, THE GROWING

NUMBER OF AMERICANS ARRESTED AND THE COMPLEXITY OF THE

PROBLEMS INVOLVED HAVE MADE IT MOST DIFFICULT TO ASSURE THAT ALL RECEIVE THE ADEQUATE PROTECTION AND ATTENTION THEY DESERVE. OUR EMBASSY IN MEXICO CITY AND OUR CONSULATES THROUGHOUT THE COUNTRY, ALTHOUGH HEAVILY OVERBURDENED, HAVE WORKED HARD TO MEET THIS DEMAND, TO SEE THAT EVERY AMERICAN IN MEXICO ENJOYS EVERY RIGHT TO WHICH HE IS ENTITLED.

5. I BELIEVE NO ONE IS SATISFIED THAT THE SITUATION IS BEING DEALT WITH AS EFFECTIVELY AS ONE WOULD LIKE, BUT I DO FEEL THAT WE ARE MAKING PROGRESS. CERTAINLY, THE PROBLEM IS NOT ONE OF ATTITUDE, NOR OF UNWILLINGNESS TO ACT. IT IS RATHER ONE OF LIMITED RESOURCES AND MANPOWER, AND PERHAPS IN INDIVIDUAL CASES, JUDGMENT AND PERSONALITY. PART OF IT ALSO IS THE FRUSTRATION OF TRYING TO OVERCOME THE DIFFICULTIES ENCOUNTERED IN DEALING WITH A LEGAL SYSTEM DIFFERENT THAN OUR OWN.

6. LET ME BE MORE SPECIFIC. A PRIMARY COMPLAINT HAS BEEN THE LONG DELAY BETWEEN THE ARREST OF AN AMERICAN CITIZEN AND THE TIME HE IS FIRST CONTACTED BY A CONSULAR OFFICER. WE CERTAINLY DEPLORE THIS AS MUCH AS DO THE INDIVIDUALS CONCERNED. HOWEVER, OUR EMBASSY IN MEXICO HAS BEEN UNSUCCESSFUL IN SECURING IMMEDIATE CONSULAR ACCESS TO ARRESTED AMERICANS. ALTHOUGH WE HAVE ASKED AND CONTINUE TO ASK THE MEXICAN AUTHORITIES FOR THIS, THERE IS USUALLY A DELAY OF 72 HOURS BEFORE CONSULAR ACCESS IS PERMITTED.

7. A SECOND COMPLAINT WHICH IS OFTEN HEARD IS THAT WE DO NOT EXTEND ADEQUATE ASSISTANCE TO ARRESTED AMERICANS IN SENDING WORD TO PARENTS, FRIENDS AND OTHERS WHO SHOULD BE NOTIFIED OF THEIR ARREST. SOME PRISONERS MAY HAVE A VALID COMPLAINT IN THIS REGARD. HOWEVER, THERE ARE MANY PRISONERS WHO SPECIFICALLY REQUEST THAT PARENTS AND RELATIVES SHOULD NOT BE NOTIFIED AND OUR CONSULAR OFFICERS, OF COURSE, MUST ABIDE BY SUCH REQUESTS. SUBSEQUENT PARENTAL DISTRESS AT LACK OF NOTIFICATION MAY THEN, QUITE UNCLASSIFIED

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UNFAIRLY, BE DIRECTED AT OUR CONSULAR OFFICERS.

8. WE, OF COURSE, VIEW WITH UTMOST GRAVITY THE CHARGES THAT TORTURE IS USED DURING INTERROGATION SESSIONS, AND THAT THERE ARE REPEATED VIOLATIONS OF MEXICAN LEGAL PROCEDURES IN CASES INVOLVING AMERICANS. THERE HAVE BEEN A NUMBER OF REPORTS OF MISTREATMENT OF AMERICANS JAILED IN MEXICO IN THE PAST YEAR AND WHENEVER THEY HAVE BEEN SUBSTANTIATED, AS A RESULT OF SUBSEQUENT INVESTIGATION, THE MATTER HAS BEEN TAKEN UP WITH THE MEXICAN GOVERNMENT.

YOU WILL RECALL THAT WE DELIVERED A NOTE ON JULY 2, 1974, TO THE MEXICAN MINISTRY OF FOREIGN AFFAIRS CONCERNING

REPORTS OF TORTURE, EXTORTION AND MISTREATMENT OF AMERICAN PRISONERS AND THAT THIS WAS FOLLOWED BY A DISCUSSION OF THIS MATTER BETWEEN AMBASSADOR JOVA AND FOREIGN MINISTER RABASA. STILL LATER ON OCTOBER 21 THE EMBASSY MADE TWO REPRESENTATIONS TO THE MINISTRY OUTLINING IN DETAIL THE CIRCUMSTANCES OF SEVERAL ARREST CASES IN WHICH THE ARRESTED AMERICAN HAD REPORTED TO THE EMBASSY VARIOUS FORMS OF MISTREATMENT, INCLUDING BEATINGS, THEFT OF PERSONAL EFFECTS AND FORCED SIGNING OF SELF-INCRIMINATING STATEMENTS IN SPANISH, A LANGUAGE WITH WHICH THEY ARE NOT FAMILIAR. ALTHOUGH THESE REPRESENTATIONS MAY NOT TOTALLY PREVENT THE MISTREATMENT OF ARRESTED AMERICANS, IT APPEARS THEY HAVE HAD THE POSITIVE EFFECT OF GREATLY REDUCING THE REPORTED INCIDENCE OF SUCH ABUSE. THE EMBASSY, OF COURSE, CONTINUES TO DOCUMENT THESE REPORTS AND TO BRING THEM TO THE ATTENTION OF THE APPROPRIATE MEXICAN AUTHORITIES.

9. YOU MENTIONED THE PRESENCE OF U.S. DRUG ENFORCEMENT AGENTS DURING INTERROGATIONS OF AMERICAN PRISONERS. IT IS, OF COURSE, TRUE THAT THE DEA IS COOPERATING CLOSELY WITH THE MEXICAN AUTHORITIES IN OUR JOINT EFFORT TO DEAL WITH THE INCREASINGLY SERIOUS DRUG TRAFFICKING PROBLEM. AS A GENERAL RULE, HOWEVER, THE DEA AGENTS ARE NOT PRESENT DURING THE ARREST OF AMERICANS OR THEIR INTERROGATION BY THE MEXICANS AND THE DEA WOULD CERTAINLY NOT PARTICIPATE IN AN INTERROGATION IF IT INVOLVED PHYSICAL ABUSE. WE HAVE NO EVIDENCE THAT DEA AGENTS HAVE EVER BEEN PRESENT UNDER SUCH CIRCUMSTANCES. SEPARATE INTERVIEWS WITH AMERI-
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CANS BY DEA AUTHORITIES DO TAKE PLACE WHEN REQUIRED TO RESOLVE CRIMINAL CHARGES SUBJECT, OF COURSE, TO MEXICAN PERMISSION.

10. INDIFFERENCE OF AMERICAN OFFICIALS IS ALSO ALLEGED BY PRISONERS WHO SAY THAT THEY RECEIVE VISITS FROM SUCH OFFICIALS ONLY AT WIDELY-SPACED INTERVALS IF AT ALL. THIS IS INDEED A PROBLEM, BUT IT DOES NOT STEM FROM INDIFFERENCE. THERE ARE APPROXIMATELY 550 AMERICANS CURRENTLY SERVING SENTENCES IN MEXICO (APPROXIMATELY 430 OF THESE ON DRUG-RELATED CHARGES) IN A NUMBER OF PRISONS THROUGHOUT THE COUNTRY. THE PROBLEM OF ASSURING FREQUENT VISITS TO ALL OF THESE PRISONERS IS ALMOST INSUPERABLE GIVEN THE SMALL NUMBER OF CONSULAR OFFICIALS SERVING IN MEXICO. AS IT IS, OUR OFFICERS ARE WORKING LONG HOURS OF OVERTIME AND ON WEEKENDS IN AN EFFORT TO MAINTAIN AS MUCH CONTACT AS POSSIBLE ON A REGULAR BASIS. THE CONCERN OF THE

PRISONERS IS UNDERSTANDABLE, BUT IN THE ABSENCE OF ADDITIONAL STAFF, I AM AFRAID THIS PROBLEM WILL REMAIN.

11. AS YOU INDICATE IN YOUR LETTER, THERE HAVE BEEN IN-

STANCES WHERE UNETHICAL ATTORNEYS HAVE BEEN GUILTY OF CONDUCT WHICH AMOUNTS TO VIRTUAL EXTORTION AND BLACKMAIL. THE EMBASSY IS DEEPLY TROUBLED ABOUT THIS AND HAS SOUGHT WAYS TO PROTECT AMERICANS FROM SUCH PREDATORS. IT IS NOT EASY. THE EMBASSY DOES MAKE AVAILABLE TO ANY AMERICANS WHO DESIRE, A LIST OF MEXICAN ATTORNEYS WHO ARE TO THE BEST OF THE EMBASSY'S KNOWLEDGE, REPUTABLE, ETHICAL, AND PROFESSIONALLY COMPETENT. UNLIKE THE DEPARTMENT OF DEFENSE, WHICH CAN PROVIDE LEGAL ASSISTANCE FOR MEMBERS OF THE ARMED FORCES IN DIFFICULTY ABROAD, THE EMBASSY CANNOT PROVIDE SUCH ASSISTANCE TO PRIVATE AMERICAN CITIZENS, NOR IS THERE ANY WAY IN WHICH IT CAN ABSOLUTELY VOUCH FOR INDIVIDUAL MEXICAN ATTORNEYS.

12. THE EMBASSY IS ALSO SEEKING, WHERE POSSIBLE, TO TAKE DIRECT ACTION IN INSTANCES WHERE UNSCRUPULOUS ATTORNEYS HAVE ABUSED THE RIGHTS OF AN AMERICAN ARRESTEE. FOR EXAMPLE, THE EMBASSY HAS RECENTLY INTERCEDED WITH THE MEXICAN GOVERNMENT ON BEHALF OF ONE AMERICAN PRISONER
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AND, AS A RESULT OF SUCH INTERCESSION, CRIMINAL FRAUD CHARGES HAVE BEEN BROUGHT AGAINST A WELL-KNOWN AND SUCCESSFUL EXTORTIONIST/ATTORNEY. A WARRANT HAS BEEN SWORN OUT FOR THE ARREST OF THIS ATTORNEY.

13. WE RECOGNIZE THAT MALPRACTICE BY MEXICAN ATTORNEYS AGAINST AMERICANS IS PROBABLY IMPOSSIBLE TO ELIMINATE. WE DO HOPE, HOWEVER, THAT WITH THE ASSISTANCE OF THE MEXICAN GOVERNMENT AND THE MEXICAN BAR ASSOCIATION AND THROUGH MEASURES SUCH AS THOSE I HAVE OUTLINED ABOVE WE WILL BE ABLE GREATLY TO REDUCE THE PREVALENCE OF MALPRACTICE, AT LEAST IN CASES WHERE UNSCRUPULOUS ATTORNEYS TAKE ADVANTAGE OF THE IGNORANCE OF THEIR VICTIMS. THOSE CASES IN WHICH THE VICTIMS OR THEIR FAMILIES ENGAGE IN COLLUSION WITH THE ATTORNEY IN THE HOPES OF BUYING OFF THE MEXICAN AUTHORITIES ARE ALMOST IMPOSSIBLE TO CONTROL.

14. YOU ADVANCE SEVERAL SUGGESTIONS IN YOUR LETTER FOR POSSIBLE COURSES OF ACTION WHICH MIGHT HELP RESOLVE THE CURRENT SITUATION IN MEXICO. THESE, OF COURSE, INVOLVE SIGNIFICANT DIPLOMATIC, LEGAL AND ADMINISTRATIVE CONSIDERATIONS WHICH REQUIRE STUDY AND ANALYSIS. THE WHOLE QUESTION OF OUR PRISONERS IN MEXICO IS CURRENTLY RECEIVING HIGH-LEVEL ATTENTION IN THE DEPARTMENT AND I HAVE ASKED THE OFFICES DIRECTLY RESPONSIBLE FOR THIS PROGRAM TO KEEP

YOU REGULARLY INFORMED OF ANY DEVELOPMENTS OR IF ANY ACTION TAKEN AS A RESULT OF THIS REVIEW.

15. YOUR OFFER OF COOPERATION IN DISCUSSING THE EXCHANGE OF INFORMATION, DATA AND ALTERNATE SOLUTIONS IS MOST

WELCOME. AN ESSENTIAL NEED IS TO KNOW ALL THE FACTS.
I HAVE ASKED MR. CHARLES ANDERSON OF THE OFFICE OF SPECIAL
CONSULAR SERVICES TO REVIEW WITH MEMBERS OF YOUR STAFF
THE DETAILED AND DOCUMENTED EVIDENCE OF THE APPROXIMATELY
100 CASES WHICH YOU SAY SERVE AS THE BASIS OF YOUR CONCERN.

16. I AM SURE THAT YOUR COOPERATION WILL BE PRODUCTIVE
OF A BETTER UNDERSTANDING OF THE PROBLEMS INVOLVED AND
HELPFUL IN THE FORMULATION OF CONSTRUCTIVE APPROACHES TO
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